UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,547	03/09/2004	Naomi Zack	Zack	2030

7590 07/03/2007

Robert M. Ashen, Esq.
1737 Franklin Canyon Drive
Beverly Hills, CA 90210

EXAMINER	
YOUNG, JANELLE N	

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
07/03/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/796,547	ZACK, NAOMI	
	Examiner	Art Unit	
	Janelle N. Young	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Tate et al. teaches a telephone; which reads on claimed communication apparatus, that limits the sounds of user speaking into the apparatus emanating outwardly to the surrounding environment so as to avoid disturbing people in that environment while enhancing the privacy of the user, said apparatus comprising, in combination:

a telephone; which reads on claimed communication input device, having a microphone; which reads on claimed a front surface that lies in a generally transverse plane, the area forwardly of said plane defining an external input area into which the user of the device speaks to communicate with the device (Fig. 6A; Abstract; Col. 2, lines 54-62; Col. 3, lines 35-43; and Col. 8, lines 36-50 of Tate et al.) and

a cancellation of ambient noise; which reads on claimed sound-absorbing, body; and attachment means for mounting said body outwardly adjacent to the communication input device in an operative position for blocking and absorbing sounds of the user speaking into the input area so as to substantially reduce sound passing outwardly to the surrounding environment (Fig. 6A; Abstract; Col. 2, lines 20-25 & 41-54; Col. 5, line 50-Col. 6, line 21 of Tate et al.).

What Tate et al. does not explicitly teach is operable position and in a non-operable position.

However Bartha et al. teaches a telephone which reads on claimed communication apparatus, wherein said body is positionable both in an open; which reads on claimed operable, position and in a folded or concealed; which reads on claimed non-operable, position (Fig. 1-2 & 11; Col.3, lines 24-39; and Col. 5, lines 34-56 of Bartha et al.).

What Tate et al. and Bartha et al. do not explicitly teach a communication apparatus, wherein said body being positioned generally at or rearward of said plane, thereby allowing substantially unobstructed inward passage of all sound including speech from the user from forwardly of said plane to the input.

However, Olsson teaches a communication apparatus, wherein telephone with cover which can be flipped out from the telephone body; which is interpreted as said body being positioned generally at or rearward of said plane, on the flip-cover there is a slotting, and from there a sound guide, i.e. a hollow passage, leads to the telephone body. The sound guide then continues into the telephone body and functions as a conductor of the speech into the microphone; which reads on claimed hereby allowing substantially unobstructed inward passage of all sound including speech from the user from forwardly of said plane to the input (Fig. 2a-2b; Col. 3, lines 24-43; and Col. 5, lines 20-40 of Olsson).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tate et al. (US Patent 6285772) and further in view of Bartha et al. (US Patent 6101402).

As for claim 1, Tate et al. teaches a telephone; which reads on claimed communication apparatus, that limits the sounds of user speaking into the apparatus emanating outwardly to the surrounding environment so as to avoid disturbing people in that environment while enhancing the privacy of the user, said apparatus comprising, in combination:

a telephone; which reads on claimed communication input device, having a microphone; which reads on claimed a front surface that lies in a generally transverse plane, the area forwardly of said plane defining an external input area into which the user of the device speaks to communicate with the device (Fig. 6A; Abstract; Col. 2, lines 54-62; Col. 3, lines 35-43; and Col. 8, lines 36-50 of Tate et al.) and

a cancellation of ambient noise; which reads on claimed sound-absorbing, body; and attachment means for mounting said body outwardly adjacent to the communication input device in an operative position for blocking and absorbing

sounds of the user speaking into the input area so as to substantially reduce sound passing outwardly to the surrounding environment (Fig. 6A; Abstract; Col. 2, lines 20-25 & 41-54; Col. 5, line 50-Col. 6, line 21 of Tate et al.).

What Tate et al. does not explicitly teach is operable position and in a non-operable position.

However Bartha et al. teaches a telephone which reads on claimed communication apparatus, wherein said body is positionable both in an open; which reads on claimed operable, position and in a folded or concealed; which reads on claimed non-operable, position (Fig. 1-2 & 11; Col.3, lines 24-39; and Col. 5, lines 34-56 of Bartha et al.).

What Tate et al. and Bartha et al. do not explicitly teach a communication apparatus, wherein said body being positioned generally at or rearward of said plane, thereby allowing substantially unobstructed inward passage of all sound including speech from the user from forwardly of said plane to the input.

However, Olsson teaches a communication apparatus, wherein telephone with cover which can be flipped out from the telephone body; which is interpreted as said body being positioned generally at or rearward of said plane, on the flip-cover there is a slotting, and from there a sound guide, i.e. a hollow passage, leads to the telephone body. The sound guide then continues into the telephone body and functions as a conductor of the speech into the microphone; which reads on claimed hereby allowing substantially unobstructed inward passage of all sound including speech from the user

from forwardly of said plane to the input (Fig. 2a-2b; Col. 3, lines 24-43; and Col. 5, lines 20-40 of Olsson).

It would have been obvious to one of ordinary skill of the art at the time the invention was made to incorporate a radiotelephone with sliding acoustic member, as taught by Bartha et al., in the noise control device of Tate et al., because Tate et al. already teaches apparatus is disclosed for a cancellation of ambient noise; which reads on claimed sound-absorbing, body; and attachment means for mounting said body on said communication device in an operative position in proximity to said input area but without blocking a substantial portion of said input area, said body generally facing the user speaking into the input area to thereby reduce sound emitted to the surrounding environment from such speaking (Abstract; Col. 2, lines 20-25 & 41-54; Col. 5, line 50-Col. 6, line 21 of Tate et al.). In addition, incorporating Olsson's microphone in a speech communicator would help reflect speech in toward the microphone, protect the microphone and contact junction, and shut out surrounding noises (Col. 1, line10-Col. 2, line 62 of Olsson).

The motivation of this combination would cancel or reject background noise, as taught by Tate et al. in Col. 2, lines 19-26, because it would capture the desired sounds and reduce or nullify the undesired background noises. The incorporation of sound guide in a communication device with noise control device would achieve good sound quality, the speech can be collected, and some of the surrounding noise is shut out (Abstract and Col. 1, lines 11-40 of Bartha et al.).

As for claim 2, Bartha et al. teaches a telephone; which reads on claimed communication apparatus, wherein said body is positionable both in an open; which reads on claimed operable, position and in a folded or concealed; which reads on claimed non-operable, position (Fig. 1-2 & 11; Col.3, lines 24-39; and Col. 5, lines 34-56 of Bartha et al.).

As for claim 3, Bartha et al. teaches a communication apparatus, wherein said body is permanently connected to said communication device and is selectively movable by the user between an operable position and a non-operable position (Abstract; Col. 2, lines 11-28; and Col. 3, lines 7-41 of Bartha et al.).

As for claim 4, Tate et al. teaches a communication apparatus, wherein said body is removeably attachable to said communication device in an operative position, and is selectively removable by the user to a non-operative position (Col. 2, lines 5-9 of Tate et al.).

As for claim 5, Bartha et al. teaches a communication apparatus, wherein said attachment means is a pivoted hinge, and said body is in the form of a generally flat screen movable between a non-operative position which reduces the space occupied by the apparatus and an operative position extending outwardly from said input area (Col. 1, lines 42-56 of Bartha et al.).

As for claim 6, Tate et al. teaches a communication apparatus, further including a second screen, said screens movable to outwardly extending operative positions at either side of said input area (Col. 7, lines 5-17 of Tate et al.)

As for claim 7, Bartha et al. teaches a communication apparatus, wherein said body is in the form of a sleeve slidable between an non-operative generally telescoped over said communication device and an operative position adjacent to said input area (Fig. 11; Col.3, lines 24-39; and Col. 4, lines 13-58 of Bartha et al.).

As for claims 8-10, Tate et al. teaches a communication apparatus, wherein said body is in the form of an arcuate surface extending outwardly of said input area so as to block emanation of sound and/or around but spaced and/or substantially surrounds said from the user speaking into said input area (Col. 2, line 55-Col. 3, line 18; Col. 4, line 54-Col. 5, line 49; and Col. 6, line 59-Col. 7, line 39 of Tate et al.).

As for claims 11-12, Tate et al. teaches a communication apparatus, wherein said body is comprises a rigid or semi-rigid backing that supports a layer of sound-absorbing material; which one or more from the following group: cork, rubber, foam, natural or artificial compounds of inert material, and electronic devices that absorb sound (Col. 6, lines 1-21 &51-58 of Tate et al.).

Regarding claim 13, see explanation as set forth regarding claim 1 (communication apparatus claim) because the claimed method of utilizing a communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Regarding claim 14-15, see explanation as set forth regarding claim 7 (communication apparatus claim) because the claimed method of utilizing a communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Regarding claim 16, see explanation as set forth regarding claim 3 (communication apparatus claim) because the claimed method of utilizing a communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Regarding claim 17, see explanation as set forth regarding claim 5 (communication apparatus claim) because the claimed method of utilizing a communication device so as to reduce the ambient sound produced when the user speaks into the device would perform the communication apparatus steps.

Regarding claim 18, see explanation as set forth regarding claims 1 & 11-12 (communication apparatus claim) because the claimed use with a communication device having an external input area into which the user of the device speaks to communicate with the device, sound-absorbing apparatus would perform the communication apparatus steps.

Regarding claims 19-20, see explanation as set forth regarding claims 11-12 (communication apparatus claim) because the claimed use with a communication device having an external input area into which the user of the device speaks to communicate with the device, sound-absorbing apparatus would perform the communication apparatus steps.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janelle N. Young whose telephone number is (571) 272-2836. The examiner can normally be reached on Monday through Friday: 8:30 am through 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

6/25/07

QUOCHIEN B. VUONG
PRIMARY EXAMINER

JNY
June 21, 2007